HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2757 OF 2005.

Umashankar Toraram Paliwal. ...Applicant.

V/s.

The State of Maharashtra. ...Respondent

Shri Hitendra Venegavkar, for applicant.

Shri A.S.Gadkari, APP for respondent.

CORAM: A.M.KHANWILKAR,J
DATE : MAY 2, 2005

P.C. :-

1. Heard counsel for the parties. Perused the record.

2. This application for bail is of Accused No.2. He claims parity alongwith accused No.1, who has been released on bail by this court.

3. The learned APP however, objects to the present application and the argument of parity. According to him, the accused No.1 was released on bail, essentially because of the affidavit filed by the complainant clearly stating that they have no suspicion against the accused no.1 who happens to be their close

relation(Nephew).

4. Indeed, that is one of the consideration which has weighed while releasing the accused No.1 on bail. However, the record indicates that the present applicant-accused No.2 has been implicated by the prosecution only on discloser made by accused No.1 that the child was taken to the place of present applicant-accused No.2. There is also evidence to suggest that the child was seen in the company of the present applicant/accused No.2. However, as the case of the accused No.1 has been accepted that he is staying alongwith the complainant in the same house, it is possible that the child was brought by the accused No.1 at the place of work of accused No.2 and must have been taken back by him. That evidence by itself cannot indicate that accused No.2, the applicant herein was responsible for the abduction of the child.

5. As Investigation is substantially completed, as is fairly stated by the learned APP and no other evidence is forthcoming, except the one which is already discussed herein above and as there are no antecedents against the applicant, this application ought to succeed but on following condition.

(i) The applicant is directed to be enlarged on bail in connection with the C.R.No.180 of 2005, registered with Goregaon Police station, on executing personal bond in the sum of Rs.25,000/- (Rs.twenty five thousand) with two local sureties in like amount.

(ii) The applicant shall not influence the prosecution witnesses or tamper with any prosecution evidence, in any manner, whatsoever.

(iii) The applicant shall not travel outside Mumbai without prior intimation to the Investigating Officer as well as the trial court.

(iv) The applicant shall co-operate for early disposal of the trial as condition for bail. In the even, the trial court is of the opinion that the applicant is responsible for delay in trial, the same fact be recorded in roznama, and that can be the basis for cancellation of bail.